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PATENT

Customer No. 22,852

Attorney Docket No. 08364.0025

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
Neil PORTER et al.) Group Art Unit: 1654
Serial No.: 09/936,726) Examiner: Randall O. WINSTON
Filed: January 2, 2002)
For: BIOCHEMICAL SYNTHESIS)
APPARATUS
Assistant Commissioner for Patents

Washington, DC 20231

Sir:

Response to Restriction Requirement

The following provisional election and remarks are submitted in response to the Restriction Requirement dated June 9, 2004. Additionally, please amend the application as follows prior to examination.

Amendments to the Claims begin on page 2.

Provisional Election and Remarks begin on page 15

08/11/2004 GTRAMMEL 0000004 060916 09936726

01 FC:2201 43.00 DA
02 FC:2202 207.00 DA

PROVISIONAL ELECTION AND REMARKS

Applicant provisionally elects to prosecute the claims of **Group I**, claims 1-13 and 32, with traverse. The Restriction requirement between Groups I-V is improper. Under 37 C.F.R. §§ 1.499, 1.475, claims must share only one technical feature to fulfill the unity of invention requirement. Applicants note that all claims in Groups I-V claims depend from claim 1. Thus, all claims in Groups I-V contain at least the shared features of claim 1 and the Restriction Requirement is improper. Applicant respectfully requests that the Restriction Requirement be withdrawn.

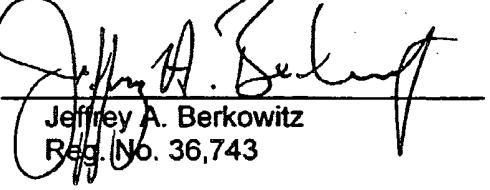
Applicant respectfully submits that the claims added herein are not subject to restriction and that no new matter is added by the amendment.

If there is any fee due in connection with the filing of this Preliminary Amendment, please charge the fee to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: August 2, 2004

By: 

Jeffrey A. Berkowitz
Reg. No. 36,743